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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/623,852	10/30/2000	Martin Peller	951/49160	8122

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EXAMINER

NGUYEN, DUSTIN

ART UNIT PAPER NUMBER

2154

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/623,852

Applicant(s)

PELLER ET AL.

Examiner

Dustin Nguyen

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 5 – 12 are presented for consideration.

Drawings

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because multiple unclear labels in the drawing. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Specification

3. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: multiple pages [i.e. page 3, 5, 7, 8] refer to German patent.

And the following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

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As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Response to Arguments

4. Applicant's arguments, see Remarks section of the amendment filed on 07/20/2005, with respect to art rejection of Weis reference have been fully considered and are persuasive. The rejection of claims 5-12 has been withdrawn.

5. Applicant's arguments filed 07/20/2005 concerning Double Patenting rejection have been fully considered but they are not persuasive. See below rejection and its reasoning.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 5-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of Patent No 6,934,775[hereinafter '775 patent]. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

Taking claim 1 as an exemplary claim, the '775 patent contains the subject matter claimed in the instant application. As per claim 1, both applications are claiming common subject matter, as follows:

A process for operating a plurality of nodes through a configured data bus wherein said nodes are in communication with one another through said configured data bus, said method comprising the steps of

- connecting at least one of said nodes ...;
- providing synchronization pulses ...;
- transmitting information signals from said nodes

The claims of '775 patent do not specifically state the transmitting signals with a hierarchical transmission sequence including starting transmission so that the information signal are independent of any one of the nodes and that the start is solely a function of the hierarchical transmission sequence. However, it would have been an obvious for one of ordinary skill in the art at the time the invention was made to recognize the limitation of the switching element of '775 patent has a time-control independent of a synchronization timing of the several user [i.e. independent of any nodes] and the variation of the bus access time depends on a function of a user [i.e. transmit time is function of hierarchical transmission sequence] would perform the same functions as disclosed in the instant claimed because it would allow user to access the data bus without any errors.

As per independent claim 9, it is also directed to the same subject matter recited in claim 1 above. Accordingly, they are rejected under the judicially created doctrine of obviousness-type double patenting.

As per dependent claims 2-8, and 10-12 of the instant application, they are depending on the rejected claims. Accordingly, they are rejected under the judicially created doctrine of obviousness-type double patenting.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 5-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Pogue, Jr. [US Patent No 5,995,512].

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10. As per claim 5, Pogue discloses the invention substantially as claimed including a process for operating a plurality of nodes through a configured data bus [i.e. multiple nodes communicate through a star topology configuration] [Figure 1; and Abstract] wherein said nodes are in communication with one another through said configured data bus [i.e. data transmitted from a node passes through the central hub and is provided to all of the nodes on the network] [Figure 1; and col 4, lines 5-7], said method comprising the steps of

connecting at least one of said nodes through an optical transmission segment to said data bus configuration [i.e. star topology configuration for connecting multiple devices through fiber optic network to central hub] [Figure 1; and col 9, lines 33-col 10, lines 52];

providing synchronization pulses to synchronize each of said nodes [i.e. master controller transmits timing data, SYNCH symbol, for synchronization of all the nodes] [col 4, lines 19-32; and col 14, lines 1-8];

transmitting information signals from said nodes with a hierarchical transmission sequence [i.e. master controller assigns time slot for each node in the frame] [Figures 6-8; col 4, lines 13-32; and col 9, lines 47-50] including the step of starting transmission of said information signals so that said information signals are independent of any one of said nodes [i.e. different node device have different bandwidth requirements based on the amount of data they produce] [col 13, lines 22-44; and col 16, lines 31-51] and wherein said starting transmission has a start time which is solely a function of said hierarchical transmission sequence [i.e. nodes allow to transmit information in its assigned time slot] [Figure 5; col 4, lines 57-col 5, lines 17; and col 7, lines 48-52].

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11. As per claim 6, Pogue discloses the transmission start time for an information element for a predetermined node is set to be later than when said predetermined node had previously received an information element from another one of said nodes [i.e. master controller sends out control block for each node and node uses that to transmit information] [col 13, lines 44-56; and col 14, lines 8-24].

12. As per claim 7, Pogue discloses the step of setting a delay time for each node within one cycle of said transmission sequence [i.e. propagation delay] [col 4, lines 32-56] wherein the length of said delay time is complimentary to a signal transit time between a predetermined node and said data bus [i.e. length of cable] [col 4, lines 42-44].

13. As per claim 8, Pogue discloses the delay time is a function of the type of connection between a node and the data bus [col 15, lines 57-col 16, lines 9].

14. As per claims 9-12, they are apparatus claimed of claim 5-8, they are rejected for similar reasons as stated above in claims 5-8.

15. A shortened statutory period for response to this action is set to expire **3 (three) months and 0 (zero) days** from the mail date of this letter. Failure to respond within the period for response will result in **ABANDONMENT** of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Follansbee John can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen
Examiner
Art Unit 2154



BUNJOB JAROENCHONWANIT
PRIMARY EXAMINER